

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

United States of America,

Plaintiff,

Civil No. 19-cv-12863

v.

Honorable Gershwin A. Drain
Magistrate David R. Grand

Dell PowerEdge Server, Serial
Number JNFHSW1, and

Any and All Cryptocurrency or
Other Digital Assets Contained
in Virtual Currency Wallets Residing
on the Dell PowerEdge Server, Serial
Number JNFHSW1,

Defendants *in rem*.

**Government's Combined Motion and Brief to Strike Claim for Failing to File
a Claim or Answer**

The United States of America, by and through Dawn N. Ison, United States Attorney for the Eastern District of Michigan, and Michael El-Zein, Assistant United States Attorney, files this Motion to Strike the Claim of Arturas Payparys pursuant to Rule G(8)(c)(i)(A) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions for failing to comply with Rule G(5). In support of its motion the Government says the following:

BACKGROUND

On October 1, 2019, the government filed a Complaint for Forfeiture against the Defendants in Rem. (ECF No. 1). On April 15, 2020, the Government filed a Motion for Order permitting Direct Notice of Complaint for Forfeiture by Email. (ECF No. 7). On April 16, 2020, the Court entered an Order Permitting Direct Notice of Complaint for Forfeiture by Email. (ECF No. 8). In response to the email service of the Complaint, Claimant Arturas Pauparys filed a Claim of Interest on November 18, 2022. (ECF No. 75).¹ Pursuant to Supplemental Rule G(5)(b) an answer or motion under Rule 12 was due within 21 days after filing the claim. Claimant never filed an answer or Rule 12 motion.

DISCUSSION

Rule G(5)(a) provides “[a] person who asserts an interest in the defendant property may contest the forfeiture by filing a claim in the court where the action is pending.” Rule G(5)(b) provides that “[a] claimant must serve and file an answer to the complaint or a motion under Rule 12 within 21 days after filing the claim.” The Government made sure that Claimant was aware of the 21-day deadline by referencing the deadline in the Warrant of Arrest, Notice *in Rem.* (ECF No. 9). According to Court records, Arturas Pauparys filed his claim on November 18, 2022.

¹ ECF No. 75 actually contains two claims, that of Arturas Pauparys and that of Dave Heesakkers. The government is not seeking to strike Mr. Heesakkers claim at this time.

To date, the Government has not received Claimant's answers to the complaint or a Rule 12 motion and the 21-day deadline has lapsed. Rule G(8)(c)(i)(A) provides that "at any time before trial, the government may move to strike a claim or answer for failing to comply with Rule G(5)."

CONCLUSION

For the reasons stated above, the Court should strike Arturas Pauparys' Claim pursuant to Rule G(8)(c)(i)(A) for failing to comply with Rule G(5).

Respectfully Submitted,

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Dated: March 1, 2023

Certification of Service

I hereby certify that on March 1, 2023, the foregoing document was electronically filed using the ECF system which will send notification of such filing to all ECF participants.

I further certify that on March 1, 2023, service of the foregoing document has been made upon the following non-ECF participants via email:

Arturas Pauparys
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